

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Apr 24, 2023

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

MICHAEL AVILEZ ESPINOZA,
a/k/a Sebastin Godina,

Defendant.

NO: 2:23-CR-30-RMP-1

ORDER GRANTING STIPULATED
PROTECTIVE ORDER RE
COMPUTER FORENSIC REVIEW
PROCEDURES FOR CHILD
PORNOGRAPHY CONTRABAND

BEFORE THE COURT is the Defendant's and the United States' (the "Government's") Stipulated Motion for Protective Order re Computer Forensic Review Procedures, ECF No. 19. Having reviewed the Motion, the Court is fully advised.

GOOD CAUSE HAVING BEEN SHOWN, the Court hereby ORDERS that the parties' Stipulated Motion for Protective Order re Computer Forensic Review Procedures for Child Pornography Contraband, **ECF No. 19**, is **GRANTED**.

1. IT IS FURTHER ORDERED that 18 U.S.C. § 3509(m) applies to this case, and the Court is required to deny any requests by Defendant to copy,

ORDER GRANTING STIPULATED PROTECTIVE ORDER RE COMPUTER
FORENSIC REVIEW PROCEDURES FOR CHILD PORNOGRAPHY
CONTRABAND ~ 1

1 photograph, duplicate, or otherwise reproduce material constituting child
2 pornography if the Government makes the material reasonably available to
3 Defendant and provides an ample opportunity for the defense to examine it at a
4 government facility. *See* 18 U.S.C. § 3509(m).

5 2. IT IS FURTHER ORDERED that, to comply with 18 U.S.C.
6 § 3509(m), and to allow Defendant the greatest opportunity to prepare an effective
7 defense in preparation for trial, the Government will make a true forensic extraction
8 and/or image of devices and media containing alleged child pornography contraband
9 at issue in the above-referenced case. The Government will make that forensic
10 extraction and/or image, as well as other data containing alleged child pornography,
11 reasonably available to Defendant and provide ample opportunity for the defense
12 team to examine it at a government facility in Spokane, Washington. The parties
13 may readdress the Court if there is a need for additional or after-hours access during
14 the course of litigation in the event trial or motion hearings require additional
15 forensic review.

16 3. IT IS FURTHER ORDERED that the defense forensic examination will
17 be conducted in an interview room monitored by closed-circuit television (“CC-
18 TV”), without audio feed. While the TV with non-audio feed will ensure the
19 integrity of FBI/HSI space and security of its occupants, the video feed is not of
20 sufficient detail or at an angle that would reveal defense strategy. The Government
21 and its agents expressly agree that no attempt will be made to record any audio from

1 the workstation and that no attempt will be made to observe the defense team's work
2 product or computer monitor screen at any time. The defense expert may review the
3 feed to ensure that defense strategy is not being compromised at any time while
4 conducting the forensic review.

5 4. IT IS FURTHER ORDERED that the defense team¹ shall not make, nor
6 permit to be made, any copies of the alleged child pornography contraband pursuant
7 to this Protective Order and shall not remove any contraband images from the
8 government facility. The defense expert will be allowed to copy any file that is not
9 contraband and compile a report (without contraband images/videos) documenting
10 the examination on removable media at the discretion of the defense expert.

11 5. IT IS FURTHER ORDERED that the designated defense expert will
12 leave at the government facility any equipment, including hard drives, which contain
13 child pornography contraband that is identified during forensic evaluation. The
14 parties may readdress this matter with the Court upon notice that the defense intends
15 to retain a different defense expert.

16 6. IT IS FURTHER ORDERED that for the purpose of trial, the
17 Government agrees to make available a digital copy of any Government trial exhibit

18
19 ¹ For purposes of this Protective Order, the term "defense team" refers solely to
20 Defendant's counsel of record, Andrea George, Defendant's designated expert
21 ("defense expert"), and a defense investigator.

1 that contains contraband, which will be kept in the custody and control of the case
2 agent. Upon reasonable notice by the defense, the case agent will also maintain for
3 trial digital copies of any proposed defense exhibit that contains contraband. If the
4 defense team intends to offer, publish, or otherwise utilize any Government or
5 defense exhibit contained on the digital copy maintained by the case agent during
6 trial, the case agent shall assist the defense team in publishing or utilizing the exhibit
7 that contains contraband upon notification by the defense team.

8 **IT IS SO ORDERED.** The District Court Clerk is directed to enter this
9 Order and provide copies to counsel.

10 **DATED** April 24, 2023.

11
12 *s/ Rosanna Malouf Peterson*
13 ROSANNA MALOUF PETERSON
14 Senior United States District Judge
15
16
17
18
19
20
21